

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

TITLE SOURCE, INC.,	:	APPEAL NO. C-100795
	:	TRIAL NO. A-1003647
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
REGINA SHIELDS,	:	
PROPERTY NEGOTIATIONS GROUP,	:	
LLC,	:	
and	:	
SHIELDS INVESTMENTS,	:	
Defendants-Appellants,	:	
and	:	
EMMA PALMER, et al.,	:	
Defendants.	:	

We consider this appeal on the accelerated calendar. This judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 3(A); App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendants-appellants Regina Shields, Property Negotiations Group, LLC, and Shields Investments (collectively “Shields”) appeal from the trial court’s entry of default judgment for plaintiff-appellee Title Source, Inc., on its claim to collect \$141,491 paid to a third party under a title insurance policy. Title Source alleged Shields and other defendants had fraudulently obtained a mortgage loan on real property.

Shields raises a single assignment of error contesting the trial court's entry of default judgment under Civ.R. 55. But the gravamen of her argument is that the trial court improperly struck her answer. We disagree.

Default judgment is appropriate when a defendant fails to file an answer or otherwise defend an action as provided in the Rules of Civil Procedure. *See* Civ.R. 55(A).

A defendant's answer is timely if it is filed within 28 days after the service of the summons and complaint, as required by Civ.R. 12(A)(1), or within an extended period granted under Civ.R. 6(B). A trial court may enter default judgment against a defendant who has filed an answer outside these periods and who has not demonstrated her untimeliness was due to excusable neglect. *See Miller v. Lint*, 62 Ohio St.2d 209, 214, 404 N.E.2d 752 (1980); *see also* Civ.R. 6(B)(2); *Kenwood Office Assocs. v. Maryland Regional Impotence Ctr., Inc.*, 1st Dist. No. C-970049, 1997 Ohio App. LEXIS 5779 (Dec. 26, 1997).

While Shields, who was not an attorney, was granted the extension she sought in the Civ.R. 6(B) motion that she filed pro se, she failed to answer within the extended period, and made no showing of excusable neglect. Thus we cannot say the trial court abused its discretion in striking her untimely answer. *See Miller, supra*; *see also Marion Prod. Credit Assn. v. Cochran*, 40 Ohio St.3d 265, 271, 533 N.E.2d 325 (1988).

Since neither Shields individually nor the other defendant-appellants that she purported to act on behalf of have filed a timely, responsive pleading to Title Source's complaint or otherwise defended as provided by the civil rules, the averments of the complaint must be deemed admitted. *See Levy v. Univ. of Cincinnati*, 1st Dist. No. C-860780, 1987 Ohio App. LEXIS 9448 (Nov. 4, 1987); *see also* Civ.R. 8(D). Thus, the trial court did not err in entering default judgment. *See Davis v. Immediate Med. Servs., Inc.*, 80 Ohio St.3d 10, 14, 684 N.E.2d 292 (1997); *see also Givaudan Roure Flavors Corp. v.*

X-Treem Prods. Corp., 1st Dist. No. C-000651, 2001 Ohio App. LEXIS 2891, *8 (June 29, 2001). The assignment of error is overruled.

Therefore, the trial court's judgment is affirmed.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HILDEBRANDT, P.J., CUNNINGHAM and DINKELACKER, JJ.

To the clerk:

Enter upon the journal of the court on August 22, 2012

per order of the court _____.
Presiding Judge